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KRASKIN, LESSE & COSSON, LLP  
ATTORNEYS AT LAW  
2120 L Street, N.W., Suite 520  
Washington, D.C. 20037

COPIES

EX PARTE OR LATE FILED

TELEPHONE (202) 296-8890

TELECOPIER (202) 296-8893

January 13, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW, Room 222  
Washington, DC 20554

Re: **The Independent Alliance**  
**CC Docket Nos. 96-98, 95-185**  
**Formal Complaints - File Nos. E-98-08, E-98-10**  
**Ex Parte Presentation**

Dear Ms. Salas:

The Independent Alliance ("Alliance"), a group of small local exchange carriers ("LECs"), hereby transmits two copies of its Comments<sup>1</sup> previously filed in response to the Commission's *Public Notice*, released May 22, 1997 (DA 97-1071), for inclusion in the record of CC Docket No. 96-98. The Alliance submits that its Comments, summarized below, provide a crucial and necessary supplement to the record in the local interconnection reconsideration proceeding currently before the Commission and will assist the Commission in a logical and rational review and disposition of issues involving LEC-paging compensation arrangements.

On December 30, 1997, the Chief of the Commission's Common Carrier Bureau ("Bureau") released an informal letter (DA 97-2726) in response to letters sent to the Commission in April and May of 1997 by Southwestern Bell Telephone ("SWBT"). These SWBT letters address issues involving the refusal by paging providers to pay LECs for tariffed local services and network facilities the paging providers ordered and use to provide services to their customers. In its December 30 letter, the Bureau concluded summarily that LECs are not permitted to assess charges on commercial mobile radio service ("CMRS") providers, including paging providers, to recover the costs of facilities that are used to deliver traffic to CMRS providers.

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<sup>1</sup> Comments of the Independent Alliance, filed June 13, 1997, in CPD 97-24, In the Matter of Requests for Clarification of the Commission's Rules Regarding Interconnection Between LECs and Paging Carriers.

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The Alliance Comments further demonstrate the soundness of SWBT's position that Section 51.703(b) of the Commission's Rules (47 C.F.R. § 51.703(b)) governs only the charges for "transport" and "termination" of "traffic" between carriers that satisfies the specific conditions set forth in Section 51.701 (47 C.F.R. § 51.701) and does not prevent LECs from charging for the facilities used by paging providers.

The Alliance recognizes that the informal letter recently issued by the Bureau was intended merely to reiterate the rule that prescribes that a LEC cannot charge a paging carrier for transport and termination on the paging carrier's network. Unfortunately, the Bureau's letter has been misinterpreted and used to bolster a theory that LECs should provide paging carriers network facilities and services for free and then possibly pay the paging carrier for calls over those facilities.

The Bureau's letter is presently being misused to support this theory and therefore creates confusion and uncertainty in the already fractured arena of CMRS interconnection. The proponents of the theory fail to distinguish the concept of reciprocal compensation between the networks of two carriers from that of the relationship of the paging carrier to a LEC whereby the paging carrier typically does not have transport and termination network facilities over which switched calls to its customers be connected and terminated. Many LECs, including some of the Alliance members, also provide CMRS services, and their short term business plans could be advanced by promotion of a theory that provides free use of LEC network facilities and services. Nonetheless, all Alliance members agree that it is preferable to work toward rational and logical long term interconnection policy and sound conceptual approaches as opposed to continuation of irrational interpretations.

Moreover, the Alliance demonstrates that (1) the parties have misconstrued the technical and interconnection framework under which paging providers obtain tariffed local services from LECs, and the confusion that has resulted has led to an illogical result; (2) the relationship that a paging carrier has with a LEC is the same as that of other local service customers, and paging providers should not be treated differently; (3) typically, paging providers do not provide the transport and termination functions that are necessary conditions for a reciprocal compensation arrangement and, therefore, reciprocal compensation concepts and the specific rules cited by the Bureau should not apply to the local arrangements with paging providers; and (4) paging providers should not be allowed to receive beneficial services from LECs free of charge while all others pay for similar services.

In its December 30 letter, the Bureau acknowledges that the application of Section 51.703(b) is subject to pending petitions for reconsideration before the Commission in CC Docket No. 96-98 and that the Commission is likely to consider the application of this rule and other paging issues further in response to those petitions. The Alliance maintains that the issues presented by the SWBT letters should be considered outside the scope of the

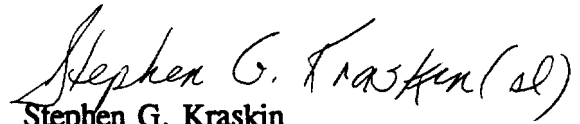
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application of the Section 51 reciprocal compensation rules. In any event, the Alliance urges the Commission to examine further paging-LEC issues in the context of the reconsideration proceeding because the Bureau did not acknowledge or address in its December 30 letter the substance of the issues presented by the Alliance in CPD 97-24.

Accordingly, the Alliance submits its Comments filed in CPD 97-24 for inclusion in the official record in CC Docket 96-98. Rather than bearing the illogical and unfair results of mandatory and rigid reciprocal compensation arrangements, the Alliance submits that, due to the nature of the typical LEC-paging relationship, the formerly existing tariffed local service or similar relationships should continue to govern the compensation arrangements between these entities. In light of the apparent confusion regarding this issue and given the Bureau's cursory response to SWBT, the Alliance respectfully urges the Commission to conduct a full review of the facts and issues discussed by the Alliance before issuing final decisions in the captioned matters.

Should there be any questions, please contact this office.

Respectfully submitted,

  
Stephen G. Kraskin  
Attorney for the Independent Alliance

cc: A. Richard Metzger, Chief, Common Carrier Bureau  
Paul E. Dorin, Southwestern Bell Telephone